



Substitute House Bill No. 5263

Public Act No. 14-127

***AN ACT MAKING MINOR AND TECHNICAL CHANGES TO
DEPARTMENT OF CONSUMER PROTECTION STATUTES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (c) of section 42-181 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2014*):

(c) The Department of Consumer Protection shall investigate, gather and organize all information necessary for a fair and timely decision in each dispute. The commissioner may issue subpoenas on behalf of any arbitrator to compel the attendance of witnesses and the production of documents, papers and records relevant to the dispute. The department shall forward a copy of all written testimony, including all documentary evidence, to an independent technical expert certified by the National Institute of Automotive Service Excellence or having a degree or other credentials from a nationally recognized organization or institution attesting to automotive expertise, who shall review such material and be available to advise and consult with the arbitrator. [An expert shall sit as a nonvoting member of an arbitration panel whenever oral testimony is presented. Such experts may be recommended by the Commissioner of Motor Vehicles at the request of the Commissioner of Consumer Protection.] An arbitrator shall, as

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expeditiously as possible, but not later than sixty days after the time the consumer files the complaint form together with the filing fee, render a fair decision based on the information gathered and disclose his or her findings and the reasons therefor to the parties involved. The failure of the arbitrator to render a decision within sixty days shall not void any subsequent decision or otherwise limit the powers of the arbitrator. The arbitrator shall base his or her determination of liability solely on whether the manufacturer has failed to comply with section 42-179. The arbitration decision shall be final and binding as to the rights of the parties pursuant to section 42-179, subject only to judicial review as set forth in this subsection. The decision shall provide appropriate remedies, including, but not limited to, one or more of the following:

(1) Replacement of the vehicle with an identical or comparable new vehicle acceptable to the consumer;

(2) Refund of the full contract price, plus collateral charges as specified in subsection (d) of [said] section 42-179;

(3) Reimbursement for expenses and compensation for incidental damages as specified in subsection (d) of [said] section 42-179;

(4) Any other remedies available under the applicable warranties, section 42-179, this section and sections 42-182 to 42-184, inclusive, or the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act, 88 Stat. 2183 (1975), 15 USC 2301 et seq., as in effect on October 1, 1982, other than repair of the vehicle. The decision shall specify a date for performance and completion of all awarded remedies. Notwithstanding any provision of the general statutes or any regulation to the contrary, the Department of Consumer Protection shall not amend, reverse, rescind or revoke any decision or action of an arbitrator. The department shall contact the consumer, within ten [working] business days after the date for performance, to determine

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whether performance has occurred. The manufacturer shall act in good faith in abiding by any arbitration decision. In addition, either party to the arbitration may make application to the superior court for the judicial district in which one of the parties resides or, when the court is not in session, any judge thereof for an order confirming, vacating, modifying or correcting any award, in accordance with the provisions of this section and sections 52-417, 52-418, 52-419 and 52-420. Upon filing such application the moving party shall mail a copy of the application to the Attorney General and, upon entry of any judgment or decree, shall mail a copy of such judgment or decree to the Attorney General. A review of such application shall be confined to the record of the proceedings before the arbitrator. The court shall conduct a de novo review of the questions of law raised in the application. In addition to the grounds set forth in sections 52-418 and 52-419, the court shall consider questions of fact raised in the application. In reviewing questions of fact, the court shall uphold the award unless it determines that the factual findings of the arbitrator are not supported by substantial evidence in the record and that the substantial rights of the moving party have been prejudiced. If the arbitrator fails to state findings or reasons for the award, or the stated findings or reasons are inadequate, the court shall search the record to determine whether a basis exists to uphold the award. If it is determined by the court that the manufacturer has acted without good cause in bringing an appeal of an award, the court, in its discretion, may grant to the consumer his costs and reasonable attorney's fees. If the manufacturer fails to perform all awarded remedies by the date for performance specified by the arbitrator, and the enforcement of the award has not been stayed pursuant to subsection (c) of section 52-420, then each additional day the manufacturer wilfully fails to comply shall be deemed a separate violation for purposes of section 42-184.

Sec. 2. Subsection (a) of section 21a-190l of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July*

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1, 2014):

(a) The commissioner may deny, suspend or revoke the registration of any charitable organization, fund-raising counsel or paid solicitor which has violated any provision of sections 21a-190a to 21a-190l, inclusive. The commissioner may accept a written assurance of compliance when said commissioner determines that a violation of said sections is [not material and] such that the public interest would not be served by a denial, suspension or revocation of such registration.

Sec. 3. Subsection (d) of section 20-417i of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2014*):

(d) Beginning October 1, 2000, whenever a consumer obtains a court judgment against any new home construction contractor holding a certificate or who has held a certificate under sections 20-417a to 20-417j, inclusive, within the past two years of the date of entering into the contract with the consumer, for loss or damages sustained by reason of any violation of the provisions of sections 20-417a to 20-417j, inclusive, by a person holding a certificate under said sections, such consumer may, upon the final determination of, or expiration of time for taking, an appeal in connection with any such judgment, apply to the commissioner for an order directing payment out of the New Home Construction Guaranty Fund of the amount not exceeding thirty thousand dollars unpaid upon the judgment for actual damages and costs taxed by the court against such contractor, exclusive of punitive damages. The application shall be made on forms provided by the commissioner and shall be accompanied by a certified copy of the court judgment obtained against the new home construction contractor together with a notarized affidavit, signed and sworn to by the consumer, affirming that the consumer has: (1) Complied with all the requirements of this subsection; (2) obtained a judgment, stating the

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amount of the judgment and the amount owing on the judgment at the date of application; and (3) made a good faith effort to satisfy any such judgment in accordance with the provisions of chapter 906 which effort may include causing to be issued a writ of execution upon such judgment, but the officer executing the same has made a return showing that no bank accounts or [real] personal property of such contractor liable to be levied upon in satisfaction of the judgment could be found, or that the amount realized on the sale of them or of such of them as were found, under the execution, was insufficient to satisfy the actual damage portion of the judgment or stating the amount realized and the balance remaining due on the judgment after application on the judgment of the amount realized, except that the requirements of this subdivision shall not apply to a judgment obtained by the consumer in small claims court. A true and attested copy of such executing officer's return, when required, shall be attached to such application and affidavit. Whenever the consumer satisfies the commissioner or the commissioner's designee that it is not practicable to comply with the requirements of subdivision (3) of this subsection and that the consumer has taken all reasonable steps to collect the amount of the judgment or the unsatisfied part of the judgment and has been unable to collect the same, the commissioner or the commissioner's designee may, in the commissioner's or the commissioner's designee's discretion, dispense with the necessity for complying with such requirement. No application for an order directing payment out of the fund shall be made later than two years from the final determination of, or expiration of time for taking, an appeal of such court judgment, and no such application shall be for an amount in excess of thirty thousand dollars.

Approved June 6, 2014